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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,099	07/05/2005	Mirco Rossetti	P-US-PR-1080	1117
7590	07/14/2008		EXAMINER	
Adan Ayala Black & Decker Corporation 701 East Joppa Road TW 199 Towson, MD 21286				LEE, LAURA MICHELLE
ART UNIT		PAPER NUMBER		
		3724		
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		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/517,099	ROSSETTI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	LAURA M. LEE	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 4/04/2008.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-6,8,9,11 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6,8,9,11 and 17 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments filed 4/04/2008 have been fully considered but they are not persuasive. The applicant contends that Ferdinand does not disclose a fence which is longitudinally adjustable along a direction substantially parallel to the cutting line. However, as best shown in Ferdinand's Figure 7, and as disclosed in col. 5, lines 63-65, "the mounting member 116 for each fence 100 is pivotally mounted to a downwardly projecting rib 138." Therefore, the screw, 115, and knob, 132 both provide a movable connection for the fence along guide slots 104 and 106. If the screw did not move in the slot 104, then the fence couldn't be adjusted. As the fence is incrementally moved to the varying degrees there is an angular adjustment of the fence and also components of movement in both a parallel and perpendicular direction to the cutting line as the knobs slide within grooves 104 and 106. Varying the position of the fence by small incremental degrees provides two positions that maintain substantially parallel fence alignment, while also providing a component of movement in a direction parallel to the cutting line.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-6, 8-9 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferdinand et al. (U.S. Patent 4,328,728), herein referred to as Ferdinand. Ferdinand discloses a miter saw (12) comprising a base (30) comprising a working surface (32) having first and second guide tracks (106/106); a saw assembly (18) pivotally connected to the base (see Figure 6), the saw assembly comprising a blade (18, the blade being movable in a first cutting plane (extending from channel 38), the cutting plane intersecting the working surface (32) along a first cutting line (in line with channel 38), the saw assembly (18) being movable downwardly towards the base (see Figure 6) for cutting a workpiece place on the base (30); and an adjustable elongated fence (100/100/116/116) mounted on and supported by the working surface (32), the fence being angularly displaceable (about the scale, 200) relative to the first cutting line, and longitudinally adjustable (i.e. via screws 132/115/138) along a direction substantially parallel to the cutting line (via arcuate guide slots, 104 and 106, there is a component of movement parallel to the cutting line) so that the fence is disposable in a first position (at the 90-degree angle identified in the scale, 200, of Figure 3) defining a first plane and a second position (at the next degree interval; i.e. 89-degree) defining a second plane supporting the workpiece, the first and second planes being substantially parallel, the fence remaining stationary relative to the cutting plane during a cutting operation of a workpiece placed on the base, the fence (100/100/116/116) comprising a first portion (left side, 100) disposed on one side of the cutting line and being substantially perpendicular to the working surface (see Figure 1); a first track follower

member (132) connected to the first portion (100) and in cooperative sliding engagement with the first guide track (106), a second portion (right side, 100) disposed on the other side of the cutting line, the second portion (100) being substantially coplanar (at the 90-degree position) with the first portion and substantially perpendicular to the working surface (32), a second track follower member (132) connected to the second portion (100r) and in cooperative sliding engagement with the second guide track, and a rigid support element (116/116) extending outside the first plane when in the first position and extending between and rigidly connected to the first and second portions via screws 132 and 115.

In regards to claim 3, Ferdinand discloses wherein the working surface (10) is non-adjustably mounted on the base.

In regards to claim 4, Ferdinand discloses wherein the working surface comprises a recessed channel (38)

In regards to claim 5, Ferdinand discloses wherein the fence (100/100/116/116) comprises at least one releasable restraining member (132) for restraining the fence to the work surface in a plurality of angularly adjusted orientations relative to the cutting line.

In regards to claim 6, Ferdinand discloses wherein the fence comprises a restraining member (132) comprising a first member (131; Figure 8) disposed in the working surface (32) and threadingly engaged to a second member (132) disposed on the fence (100).

In regards to claim 8, Ferdinand discloses wherein the fence extends over the cutting line (Figure 7).

In regards to claim 9, Ferdinand discloses wherein the fence comprises a recess (the break between the fence portions 100/100) for overlying the cutting line in the working surface.

In regards to claim 17, Ferdinand discloses wherein the first track follower member (132) is longitudinally adjustable along the fence (100/100/116/116 i.e. at least the opposing fence side opposite the member).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferdinand in view of Wixey (U.S. Patent 5,988,031). Ferdinand does not disclose that the miter saw blade is adjustable so as to adjustably incline the cutting plane relative to the work surface. However, it is old and well known in the art to provide for angular adjustment of miter blades in order to bevel cut pieces of molding and the like, especially for angles of 45-degrees. Wixey also corroborates that providing angular adjustment to miter saws

is and old and well known modification, as such it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the Ferdinand miter saw to be angularly adjustable to improve the versatility of the saw.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferdinand in view of Pollak et al. (U.S. Patent 5,097,601), herein referred to as Pollak. Ferdinand discloses the claimed invention except that the wherein at least one of the first and second portions is inclined so as to accommodate the blade when the cutting plane is inclined relative to the working surface. As it is old and well known in the art to provide for angular rotation of the blade to allow for angular cutting, it additionally old and well known to incline the ends of the fence to accommodate the angular change of the cutting blade. It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the ends of the Myhre fences to have a chamfered edge as taught by Pollack so that the fence could be positioned closer to the cutting blade and thus provide a stronger support for the workpiece.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAURA M. LEE whose telephone number is (571)272-8339. The examiner can normally be reached on Monday through Friday, 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Laura M Lee/  
Examiner, Art Unit 3724  
6/24/2008  
/Boyer D. Ashley/  
Supervisory Patent Examiner, Art Unit 3724